



Copyright (International Protection) Amendment Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 November 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Mitch Fifield
Minister for Communications and the Arts

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules	1
Schedule 1—Amendments		2
Part 1—Amendments commencing day after registration		2
<i>Copyright (International Protection) Regulations 1969</i>		2
Part 2—Amendments commencing 1 January 2019		5
<i>Copyright (International Protection) Regulations 1969</i>		5

1 Name

This instrument is the *Copyright (International Protection) Amendment Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	27 November 2018
2. Schedule 1, Part 1	The day after this instrument is registered.	27 November 2018
3. Schedule 1, Part 2	1 January 2019.	1 January 2019

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Copyright Act 1968*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments commencing day after registration

Copyright (International Protection) Regulations 1969

1 Regulation 2

Repeal the regulation, substitute:

2 Authority

These regulations are made under the *Copyright Act 1968*.

2 Regulation 3 (after the heading)

Insert:

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) broadcast;
- (b) cinematograph film;
- (c) sound broadcast;
- (d) sound recording;
- (e) television broadcast;
- (f) work.

3 Subregulation 3(1)

Omit “, unless the contrary intention appears”.

4 Subregulation 3(1)

Insert:

foreign encoded broadcast: see subregulation 4(7C).

5 Subregulation 3(1) (definition of *US broadcaster*)

Repeal the definition.

6 Regulation 4 (heading)

Repeal the heading, substitute:

4 Protection—application of the Act (other than Part XIA) to specified foreign countries

7 Regulation 4 (after the heading)

Insert:

Scope

(1AA) For the purposes of section 184 of the Act, this regulation applies certain provisions of the Act (other than Part XIA of the Act (performers’ protection)) in relation to the foreign countries specified in this regulation, subject to the exceptions and modifications specified in this regulation.

8 Subregulation 4(7B)

Repeal the subregulation, substitute:

Encoded broadcasts made from Malaysia and the United States of America

- (7B) Subject to these Regulations, a provision of Part VAA of the Act that applies to an encoded broadcast made from a place in Australia (an **Australian encoded broadcast**) applies in relation to a foreign encoded broadcast:
- (a) in the same way as the provision applies, under the Act, in relation to an Australian encoded broadcast; and
 - (b) as if the foreign encoded broadcast were an Australian encoded broadcast.
- (7C) A **foreign encoded broadcast** is an encoded broadcast made at a material time by a broadcaster if:
- (a) the broadcast is made from a place in:
 - (i) Malaysia; or
 - (ii) the United States of America; and
 - (b) the broadcaster:
 - (i) is entitled, under the law of the country from which the broadcast is made, to make that broadcast; and
 - (ii) is, at the material time, a citizen or national of that country, or a person resident in, or a body corporate that has its headquarters in, that country.
- (7D) For the purposes of paragraph 184(3)(a) of the Act, the following international agreements are specified:
- (a) in relation to the application of a provision of Part VAA of the Act to a broadcast made from a place in Malaysia—the Malaysia-Australia Free Trade Agreement, done at Kuala Lumpur on 22 May 2012;
 - (b) in relation to the application of a provision of Part VAA of the Act to a broadcast made from a place in the United States of America—the Australia-United States Free Trade Agreement done at Washington DC on 18 May 2004.

Note: In 2018, the text of these Agreements was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

9 Regulation 8 (heading)

Repeal the heading, substitute:

8 Protection—application of Part XIA of the Act to specified foreign countries

10 Regulation 8 (after the heading)

Insert:

Scope

- (1A) For the purposes of section 248U of the Act, this regulation applies certain provisions of Part XIA of the Act (performers' protection) in relation to the foreign countries specified in this regulation, subject to the exceptions and modifications specified in this regulation.

11 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Application, savings and transitional provisions

12 In the appropriate position in Part 4

Insert:

15 Amendments made by the *Copyright (International Protection) Amendment Regulations 2018*

- (1) The repeal of subregulation 4(7B) of these Regulations and its substitution with new subregulations 4(7B), (7C) and (7D) made by Part 1 of Schedule 1 to the *Copyright (International Protection) Amendment Regulations 2018* applies in relation to a foreign encoded broadcast made on or after the commencement of this regulation.
- (2) The repeal and substitution of Schedule 3 to these regulations made by Part 2 of Schedule 1 to the *Copyright (International Protection) Amendment Regulations 2018* applies in relation to:
 - (a) a recording heard in public on or after 1 January 2019; and
 - (b) a broadcast made on or after 1 January 2019.

Note: Part 2 of Schedule 1 to the *Copyright (International Protection) Amendment Regulations 2018* commences on 1 January 2019.

Part 2—Amendments commencing 1 January 2019

Copyright (International Protection) Regulations 1969

13 Schedule 3

Repeal the Schedule, substitute:

Schedule 3—Secondary uses of sound recordings

Note: See the definition of *Schedule 3 country* in subregulation 3(1) and subregulations 6(2) and 7(2).

Countries that provide rights for secondary uses of sound recordings

Albania
Algeria
Andorra
Argentina
Armenia
Austria
Azerbaijan
Bahamas, The
Bahrain
Bangladesh
Barbados
Belarus
Belgium
Benin
Bermuda
Bolivia
Bosnia and Herzegovina
Botswana
Brazil
Brunei Darussalam
Bulgaria
Burkina Faso
Cabo Verde
Canada
Chile
Colombia
Costa Rica
Croatia
Cyprus
Czech Republic
Denmark
Dominica
Dominican Republic
Ecuador

Schedule 1 Amendments

Part 2 Amendments commencing 1 January 2019

Countries that provide rights for secondary uses of sound recordings

El Salvador
Estonia
Fiji
Finland
Former Yugoslav Republic of Macedonia
France
Georgia
Germany
Ghana
Greece
Guatemala
Guinea
Holy See, The
Honduras
Hungary
Iceland
India
Indonesia
Ireland
Israel
Italy
Jamaica
Japan
Kazakhstan
Kyrgyzstan
Latvia
Lebanon
Lesotho
Liberia
Liechtenstein
Lithuania
Luxembourg
Malaysia
Mali
Malta
Mauritius
Mexico
Moldova, Republic of
Monaco
Mongolia
Montenegro
Morocco
Netherlands
New Zealand

Countries that provide rights for secondary uses of sound recordings

Nicaragua
Nigeria
Norway
Oman
Pakistan
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
Republic of Korea
Romania
Russian Federation
Saint Lucia
Saint Vincent and the Grenadines
Serbia
Slovak Republic
Slovenia
Spain
Sweden
Switzerland
Tajikistan
Thailand
Togo
Trinidad and Tobago
Turkey
Ukraine
United Arab Emirates
United Kingdom
Uruguay
Venezuela
Vietnam
